

## CCRB INVESTIGATIVE RECOMMENDATION

Investigator: Anya Curtis	Team: Squad #11	CCRB Case #: 202100334	<input type="checkbox"/> Force	<input checked="" type="checkbox"/> Discourt.	<input type="checkbox"/> U.S.
			<input checked="" type="checkbox"/> Abuse	<input type="checkbox"/> O.L.	<input type="checkbox"/> Injury
Incident Date(s) Monday, 01/18/2021 4:56 PM	Location of Incident: Penn Station (2,3 Track)	Precinct: 14	18 Mo. SOL 7/18/2022	EO SOL 7/18/2022	
Date/Time CV Reported Mon, 01/18/2021 5:36 PM	CV Reported At: CCRB	How CV Reported: On-line website	Date/Time Received at CCRB Mon, 01/18/2021 5:36 PM		

Complainant/Victim	Type	Home Address

Subject Officer(s)	Shield	TaxID	Command
1. POM Vinicio Vincenty	27454	945405	TB SOD

Witness Officer(s)	Shield No	Tax No	Cmd Name
1. POM Billy Randolphe	19719	937341	TB SOD
2. POM Christophe Siebel	15838	962104	TB SOD
3. POM Neftali Montero	25646	950904	TB SOD
4. PO Michael Hernandez	05562	947078	TB SOD

Officer(s)	Allegation	Investigator Recommendation
A.POM Vinicio Vincenty	Discourtesy: Police Officer Vinicio Vincenty spoke discourteously to § 87(2)(b)	
B.POM Vinicio Vincenty	Discourtesy: Police Officer Vinicio Vincenty spoke discourteously to § 87(2)(b)	
C.POM Vinicio Vincenty	Abuse: Police Officer Vinicio Vincenty threatened to arrest § 87(2)(b)	
D.POM Vinicio Vincenty	Discourtesy: Police Officer Vinicio Vincenty spoke discourteously to § 87(2)(b)	

### Case Summary

On January 18, 2021, § 87(2)(b) filed this complaint on the CCRB website.

On January 18, 2021, at approximately 4:56 p.m., in the vicinity of the 2 and 3 train tracks in Penn Station in Manhattan, PO Vinicio Vincenty of Transit Bureau Special Operations Division observed § 87(2)(b)'s friend § 87(2)(b) jumping over the turnstile and not paying his fare. Also present were PO Billy Randolphe of Transit Bureau Special Operations Division and PO Christopher Siebel who was from the Transit Bureau Anti-Terrorism Unit at the time, but training for transfer to Transit Bureau Special Operations Division. PO Randolphe took § 87(2)(b) down to the mezzanine, off the platform, and PO Vincenty told § 87(2)(b) that he could accompany § 87(2)(b). As PO Vincenty issued § 87(2)(b) a summons for the offense, he turned to § 87(2)(b) and allegedly said, "go up the fucking stairs" and that he would "fucking cuff" him (**Allegations A and B: Discourtesy: § 87(2)(g)**) (**Allegation C: Abuse of Authority: § 87(2)(g)**). After issuing a summons to § 87(2)(b), PO Vincenty told him that § 87(2)(b) was an "ass" (**Allegation D: Discourtesy: § 87(2)(g)**).

§ 87(2)(b) was issued non-criminal summons #1§ 87(2)(b) for § 87(2)(b) (BR 15).

Video evidence was obtained from the body worn cameras (BWC) of PO Randolphe and PO Vincenty (BR 04-05) via the NYPD Legal Bureau. A request for video evidence from the body worn cameras of PO Siebel, PO Michael Hernandez, and PO Neftali Montero yielded negative results (BR 17).

#### **Allegation (A) Discourtesy: Police Officer Vinicio Vincenty spoke discourteously to § 87(2)(b).**

PO Randolphe's BWC shows that at the 01:31 mark in the video player, § 87(2)(b) asked PO Vincenty "Can I have your badge number?" to which PO Vincenty responds "27454". At the 01:41 mark, PO Vincenty asked § 87(2)(b) "Why, is there an issue?" to which § 87(2)(b) responded "No". At 01:49 of the footage, PO Vincenty said to § 87(2)(b) "Go back upstairs." At 01:52 PO Vincenty said "Didn't I tell you to go upstairs? Go back upstairs." There were parts of PO Vincenty's and § 87(2)(b)'s conversation that were unintelligible due to the background noise of the train station and PO Randolphe's distance from the interaction. Additionally, at one point, PO Randolphe was speaking to two other civilians he had stopped for fare evasion, and therefore, his conversation was heard over PO Vincenty and § 87(2)(b).

PO Vincenty's BWC did not capture this portion of the incident. PO Vincenty's BWC was not activated until after § 87(2)(b) had left and he was continuing to issue the summons to § 87(2)(b).

§ 87(2)(b) provided a cell phone recording in which he was heard using profanity, but there was no profanity used by PO Vincenty. The recording did not capture the entire incident but began as § 87(2)(b) was walking up the stairs from the mezzanine (BR 02).

§ 87(2)(b) testified (BR 01) that when he asked PO Vincenty for his shield number, PO Vincenty was writing on his ticket pad. PO Vincenty provided his shield number and asked, "Why, is there a problem here?" § 87(2)(b) said there was no problem and he just wanted his shield number for his records. At that point, PO Vincenty told him to "Go up the fucking stairs."

During a telephone statement, § 87(2)(b) said (BR 03) that he could not recall if PO Vincenty used profanity toward § 87(2)(b) but he believed it was used when telling § 87(2)(b) to go upstairs.

PO Vincenty testified (BR 07) that he did not recall telling § 87(2)(b) to "Go up the fucking stairs" but he did tell § 87(2)(b) to "go upstairs" more than once.

PO Randolphe testified (BR 06) that he heard PO Vincenty tell § 87(2)(b) "Go upstairs" but never heard PO Vincenty or any other officer say, "Go up the fucking stairs."

PO Siebel testified (BR 18) that § 87(2)(b) asked him, PO Vincenty, and PO Randolphe for their shield numbers. PO Siebel provided his shield number but could not recall how PO Vincenty responded to § 87(2)(b)'s request. PO Siebel also testified that he did not recall if any officer told § 87(2)(b) to "Go up the fucking stairs."

PO Montero testified (BR 19) that he had no independent knowledge of this incident and only learned of what had happen upon appearance for his CCRB interview.

PO Hernandez (BR 20) testified that he was working with PO Montero and at 4:48 p.m., he was writing a summons for an entirely different incident. PO Montero knew that PO Vincenty and PO Randolphe were at Penn Station, but he did not know how far he was from them.

§ 87(2)(g)

**Allegation (B): Discourtesy: Police Officer Vinicio Vincenty spoke discourteously to § 87(2)(b).**

**Allegation (C): Abuse of Authority: Police Officer Vinicio Vincenty threatened to arrest**

§ 87(2)(b)

PO Randolphe's BWC did not capture the entirety of the conversation between PO Vincenty and § 87(2)(b) due to background noise in the subway station and PO Randolphe's distance from the interaction. However, of what could be deciphered, PO Randolphe's BWC did not capture PO Vincenty saying he would "fucking cuff" § 87(2)(b) nor that he would "escalate" the situation. At the 01:47 mark in the video player of PO Randolphe's BWC, PO Vincenty told § 87(2)(b) to "Go back upstairs." § 87(2)(b) then stepped back and continued speaking with PO Vincenty. At 01:58 mark, § 87(2)(b) lifts his phone as if to record after PO Vincenty took steps toward him. PO Randolphe says, "Okay, you can record. Record from a distance." At the 2:00 mark of PO Randolphe's BWC, PO Vincenty told § 87(2)(b) "Go upstairs or I'm putting my cuffs on you."

PO Vincenty's BWC did not capture this portion of the incident. PO Vincenty's BWC was not activated until after § 87(2)(b) had left and he was continuing to issue the summons to § 87(2)(b).

§ 87(2)(b) provided a cell phone recording in which he was heard using profanity, but there was no profanity used by PO Vincenty. The recording did not capture the entire incident but began as § 87(2)(b) was walking up the stairs from the mezzanine. PO Vincenty said, "record from a distance". At 00:03, § 87(2)(b) said, "I paid for my fucking fare" to which PO Vincenty responded, "Go upstairs or I'm putting my cuffs on you". At 00:05, § 87(2)(b) said, "Fuck you" and gestured his middle finger to PO Vincenty. (BR 02).

§ 87(2)(b) testified (BR 01) that after he started recording PO Vincenty, PO Vincenty said he would "fucking cuff" him if he did not go back upstairs. Before he began asking for officers' shield numbers, he was standing six to eight feet away from the officers. The closest he was to § 87(2)(b) was within three to four feet. He never stepped between officers and § 87(2)(b). PO Vincenty said he would "escalate" the situation which § 87(2)(b) interpreted as he would be handcuffed.

During a telephone statement, § 87(2)(b) said (BR 03) that § 87(2)(b) was about two to three arm lengths away at the beginning of the interaction and did not interfere with anything that the officers were doing. § 87(2)(b) was at his closest when asking for shield numbers. After § 87(2)(b) left, PO Vincenty turned on his body camera. § 87(2)(b) did not mention that PO Vincenty said he would "fucking cuff" § 87(2)(b) in his testimony. § 87(2)(b) could not recall if PO Vincenty used profanity toward § 87(2)(b) but believes it was used when telling § 87(2)(b) to go back upstairs.

PO Vincenty testified (BR 07) that he never said he would "fucking cuff" § 87(2)(b) but he did tell § 87(2)(b) he would place him in cuffs if he did not go upstairs. PO Vincenty heard an officer, possibly PO Randolphe, tell § 87(2)(b) to "back up." PO Vincenty turned around and

noticed that § 87(2)(b) was hovering over his shoulder and was less than a foot away from him. PO Vincenty told § 87(2)(b) more than once to go back upstairs and he was not listening. PO Vincenty testified (BR 07) that § 87(2)(b) could have been arrested because he was not following lawful orders. § 87(2)(b) told PO Vincenty to “fuck himself”, remained in the same spot, and told PO Vincenty that § 87(2)(b) had not done anything wrong. PO Vincenty could not remember exactly how many times he told § 87(2)(b) to go upstairs. Additionally, § 87(2)(b) was “hovering” over him while he was trying to write the summons for § 87(2)(b). He did not say that he would “escalate” the situation. PO Vincenty said that less than five minutes passed between the first time that he asked § 87(2)(b) to go upstairs and the time he went upstairs.

PO Randolphe testified (BR 06) that none of the officers told § 87(2)(b) they would “fucking cuff” him. At no point did any officer say they would “escalate” the situation.

PO Siebel testified (BR 18) that he was walking toward the A, C, and E trains when he noticed a commotion about 10 to 15 feet away from him. PO Siebel could not recall if § 87(2)(b) used profanity towards the officers. PO Siebel could not recall if any officer told § 87(2)(b) they would “fucking cuff” him. PO Siebel remained on the scene until the end of the situation in which § 87(2)(b) walked upstairs to the platform and § 87(2)(b) left with him.

PO Montero (BR 19) and PO Hernandez (BR 20) had no independent knowledge of this incident.

NYS Penal § 195.05 (BR 10) states that a person is guilty of obstructing governmental administration when they intentionally obstruct the administration of law or other governmental function or prevent a public servant from performing an official function. Obstructing governmental administration can occur by means of intimidation, physical force, interfering, or some other independently unlawful act.

As previously mentioned, there were parts of the conversation between PO Vincenty and § 87(2)(b) that were unintelligible due to PO Randolphe’s distance from the encounter as well as background noise from the station. Additionally, the entirety of the incident was not captured from beginning to end by PO Vincenty because he was not initially recording. § 87(2)(g)

While PO Vincenty was issuing § 87(2)(b) a summons, § 87(2)(b) verbally expressed his disagreement with this action prompting PO Vincenty threaten to place him in handcuffs. It should be noted that at times, § 87(2)(b) used profanity when addressing PO Vincenty. However, § 87(2)(b) was never in close proximity to PO Vincenty and he did not take any actions that would have prevented the officer from issuing the summons to § 87(2)(b) § 87(2)(g)

**Allegation (D): Discourtesy: Police Officer Vinicio Vincenty spoke discourteously to § 87(2)(b).**

At the 01:10 mark of PO Vincenty’s BWC (BR 02), PO Vincenty told § 87(2)(b) “Your friend is an ass.”

§ 87(2)(b) was not at the scene at the time the statement was made.

During a telephone statement, § 87(2)(b) said (BR 03) that PO Vincenty said § 87(2)(b) was an “idiot” and “stupid,” but did not mention that he said § 87(2)(b) was an “ass.”

PO Vincenty testified (BR 07) that he did tell § 87(2)(b) that § 87(2)(b) was an “ass” because § 87(2)(b) was “acting like a baby”.

PO Randolphe testified ((BR 06) that he heard PO Vincenty tell § 87(2)(b) “Your friend is an ass.”

Patrol Guide Procedure 200-02 (BR 11) states that officers pledge to “Value human life, respect the dignity of each individual and render our services with courtesy and civility.”

§ 87(2)(g)

**Civilian and Officer CCRB Histories**

- This was § 87(2)(b)'s first complaint with the agency (BR 12).
- PO Vincenty has been a member of service for 13 years. This is the first CCRB complaint filed against him. (BR 13).

**Mediation, Civil and Criminal Histories**

- § 87(2)(b) declined to mediate this complaint.
- On June 11, 2021, a notice of claim was requested from the New York City Office of the Comptroller (BR 14). On June 21, 2021, the undersigned was advised that no notices of claim were located (BR 16).
- According to the New York State Office of Court Administration, § 87(2)(b) has no history of convictions within New York City. (BR 08-09).

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Squad No.: 11

Investigator: Anya Curtis Inv. Anya Curtis 11/10/21  
Signature Print Title & Name Date

Squad Leader: Edwin Pena IM Edwin Pena 11/10/21  
Signature Print Title & Name Date

Reviewer: \_\_\_\_\_  
Signature Print Title & Name Date